

**OCT 25 2006****FACSIMILE TRANSMISSION****GORDON & REES LLP**

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**DATE:** October 25, 2006**To:**

NAME	COMPANY	FAX NO.	PHONE NO.
Commissioner for Patents	USPTO	571-273-8300	

**FROM:** Rudolf O. Siegesmund

SENDER INFORMATION (NAME / USER ID / EXTENSION): / /

**FILE NO.:** AIBM.151**NUMBER OF PAGES, INCLUDING COVER:** 13

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**MESSAGE:**

Re: Response to Final Office Action dated 7/26/06

Applicant: Chen

Application No.: 10/711,981

Filing Date: 10/18/2004

Art Unit: 2155

Title: Algorithm for Minimizing Rebate Value Due to SLA Breach in a Utility Computing Environment

Docket No. RSW920040131US1

Attached are the following:

1. Response to Final Office Action dated 7/26/06;
2. Pre-Appeal Brief Request for Review;
3. Notice of Appeal;
4. Fee Transmittal; and
5. Transmittal Page

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OCT 25 2006

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/711,981
	Filing Date	10/18/2004
	First Named Inventor	Chen
	Art Unit	2155
	Examiner Name	Duong
Total Number of Pages in This Submission	Attorney Docket Number	RSW920040131US1

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Gordon & Rees, LLP		
Signature	<i>Rudolf O. Siegesmund</i>		
Printed name	Rudolf O. Siegesmund		
Date	October 25, 2006	Reg. No.	37,720

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature	<i>Rudolf O. Siegesmund</i>		
Typed or printed name	Rudolf O. Siegesmund	Date	October 25, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OCT 25 2006

PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0851-0032

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**  
**For FY 2005**☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

**Complete if Known**

Application Number	10/711,981
Filing Date	10/18/2004
First Named Inventor	Chen
Examiner Name	Duong
Art Unit	2155
Attorney Docket No.	RSW920040131US1

**METHOD OF PAYMENT** (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 09-0461 Deposit Account Name: IBM Corporation

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180

Each independent claim over 3 (including Reissues)

Multiple dependent claims

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
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- 20 or HP = 0 x = 0

HP = highest number of total claims paid for, if greater than 20.

<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
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- 3 or HP = 0 x = 0

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
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- 100 = 0 / 50 = (round up to a whole number) x =

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Notice of Appeal

500.00

**SUBMITTED BY**

Signature	<i>Rudolf O. Siegesmund</i>	Registration No. (Attorney/Agent)	37,720	Telephone	214-231-4660
Name (Print/Type)	Rudolf O. Siegesmund			Date	October 25, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. RSW920040131US1  
Serial No. 10/711,981  
Response to Office Action mailed 1/25/06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application:	10/711,981	Applicant:	Chen
Filing Date:	10/18/2004	Docket:	RSW920040131US1
Art Unit:	2155	Title:	Algorithm for Minimizing Rebate Value Due to SLA Breach in a Utility Computing Environment

AMENDMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Dear Sir:

This correspondence is responsive to the communication from the Examiner mailed July 26, 2006. The following table itemizes the papers that comprise the Applicant's response:

I. Claim Amendments.....	2
II. Remarks.....	6

Please amend the application identified above in accordance with the listing that follows the remarks. As amended, the Applicant submits that the claims of the present application are not fairly taught by any of the references of record, taken either alone or in combination. Therefore, allowance of the present application is in order, and is requested.